

COUNTY OF KAUAI
Minutes of Meeting
Open Session

Board/Committee:	LIQUOR CONTROL COMMISSION	Meeting Date	July 7, 2016
Location	Mo'ikeha Building, Meeting Room #3	Start of Meeting: 4:00 p.m.	End of Meeting: 4:31 p.m.
Present	Chair Gerald Matsunaga; Vice Chair Shirley Akita; Members: Paul Endo, William Gibson, Jean Iida, Gary Pacheco Also: Liquor Control Staff: Director Gerald Rapozo, Private Secretary Cherisse Zaima; Deputy County Attorney Nicholas Courson		
Excused	Dane Oda		
Absent			

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SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Matsunaga called the meeting to order at 4:00 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of the Agenda		Ms. Iida moved to approve the agenda. Mr. Pacheco seconded the motion. Motion carried 6:0.
Public Hearing	<u>LIVING FOODS</u> : Application No. 2016-114 was filed on March 14, 2016 by Pineapple Express LLC dba Living Foods for a Restaurant General (no live entertainment, no dancing) license located at 2829 Ala Kalanikaumaka Street, Kōloa, Kauai, Hawaii. Mr. Jeff Sacchini, and Mr. Howard Warner, members, were present.	Ms. Iida moved to approve Application No. 2016-114. Mr. Pacheco seconded the motion. Motion carried 6:0.
Violation Hearing	<u>SAM'S OCEAN VIEW</u> : Violation of Sec. 281-91, Revocation or Suspension of License; hearing. Ms. Samantha Reynolds, owner, was present; no counsel. Admitted to charges.	

	<p>Ms. Reynolds explained that it was an oversight on her part, noting she was so focused on the 11:00 p.m. end-time that she failed to familiarize herself with the full parameters of her license. She has since ceased such special events as she is a restaurant first, and does not aim to undermine any policies.</p> <p>Vice Chair Akita asked how long the licensee has had the business to which Ms. Reynolds replied she has been open since October 29, 2015.</p> <p>Commissioner Gibson asked if the licensee has made any arrangements to ensure she does not exceed the agreed-upon time in the future. Ms. Reynolds explained she is well aware of the 11:00 p.m. parameters, and has made attempts to speak with Mr. O'Brien to make it clear to him that these types of occurrences will not happen again. She has attempted to reach out to Mr. O'Brien's sons as well. She has not received any responses yet, but she assumes the O'Brien's have no issues at this time as she has been on very good terms with them as neighbors.</p> <p>Vice Chair Akita asked if the licensee was aware of the special provisions to which Ms. Reynolds replied, she was, but it was just an oversight.</p> <p>Commissioner Endo asked if this was the first time she had an event that went beyond 10:00 p.m. to which Ms. Reynolds replied there may have been one other occasion that ran until 11:00 p.m. but reiterated that she has no intention to hold events like these again; her primary business is a restaurant.</p>	
Approval of the Minutes	<u>MINUTES OF THE MEETINGS OF JUNE 16, 2016</u>	<p>Mr. Pacheco moved that a fine of \$200 be imposed with \$100 suspended if there is no conviction of the same offense for a 1-year period. Mr. Endo seconded the motion. Motion carried 6:0.</p> <p>Mr. Pacheco moved to approve the minutes. Mr. Gibson seconded the motion. Motion carried 6:0.</p>

1.	<p><u>DIRECTOR'S REPORT:</u></p> <p>a) <u>INVESTIGATORS' REPORTS</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ul style="list-style-type: none">(1) From Remy Cointreau USA(2) From Delicato Family Vineyards(3) From Avid Marketing Group(4) Disturbance Reports from The Bull Shed Restaurant, 9th Island Sports Bar & Grill, and Port Allen Sunset Grill & Bar<u>OUTGOING</u> <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ul style="list-style-type: none">(1) To Remy Cointreau USA(2) To Delicato Family Vineyards(3) To Avid Marketing Group(4) To All Wholesale Licensees <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <ul style="list-style-type: none">(1) FOODLAND PRINCEVILLE(2) KILOHANA(3) SUSHI BUSHIDO(4) WINE GARDEN(5) NATIONAL TROPICAL BOTANICAL GARDEN(6) CONTEMPORARY FLAVORS, INC. <p>f) <u>INFORMATIONAL MATTERS:</u></p>	<p>Mr. Pacheco moved to receive Items 1(a) through (f). Ms. Iida seconded the motion. Motion carried 6:0.</p>
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2. RENEWAL OF LIQUOR LICENSES:

- Correspondence from Bruce Martin, Lanning Blanks, and Kristine KatzRe: Restaurant General Lic. No. 2G-035 Lava Lava Beach Club's live entertainment.

Ian Jung, counsel representing Lava Lava, Too LLC was present along with Mr. Eric Von Platen Luder, and Mr. Jose Fuentes.

Mr. Jung explained that the licensee has attempted to make contact with Mr. Martin; however, there were some threatening gestures made, which resulted in the licensee breaking away from any further contact with the complainant. With regard to the general overview of the situation, Mr. Jung stated the license allows for music until 10:00 p.m., though there is a voluntary agreement by the licensee to cease the music at 9:00 p.m. The licensee also keeps logs of the decibel levels occurring at the property line. At the request of the Commission, those logs were circulated.

Mr. Jung asked to clarify that since the renewal application has already been reviewed, if this presentation is being treated as a formal violation complaint. Director Rapozo replied no, and further explained that Sec. 281-61 allows for review of the renewal application, noting that this meeting was considered the official commission review of the renewals listed on the agenda, and officially takes action.

Mr. Jung distributed a Google maps screen capture that shows the location of the complainant's structure at Lae Nani as compared to the Lava Lava Beach Club.

Vice Chair Akita asked to clarify that the licensee monitors noise levels on a continuous basis. Mr. Jose Fuentes, manager, presented the actual sound meter he uses, and explained that they go to Lava Lava's property line,

	<p>which is right in front of Mr. Martin's unit, and take daily decibel readings every half-hour during the entire time music is being provided from 5:00 p.m. to 9:00 p.m.; 60 decibels is what is allowed under their particular liquor license. If they see that readings are getting up to 58 or 59, they talk to the musicians and ask them to turn it down.</p> <p>Vice Chair Akita asked to clarify that the licensee attempted to meet with Mr. Martin regarding his complaint to which Mr. Fuentes stated that upon the initial receipt of the complaint, the Assistant General Manager Drew Watson went to Mr. Martin's house to speak with him. The first meeting was fairly amicable; however, during the subsequent meetings, it was stated that Mr. Martin yelled at Mr. Watson, after which Mr. Fuentes did not want his staff to have to deal with that. After that, Mr. Fuentes sent Mr. Martin an email addressing his complaint, explaining that Lava Lava will be tracking their decibel levels, and that Mr. Martin is welcome to view the logs at any time. Mr. Fuentes noted that the statement was made by Mr. Martin that he had the means to fight them and have their liquor license taken away, which Mr. Fuentes took as threatening, noting that subsequent emails followed with comments about his job performance. Mr. Fuentes explained that he and the owner of the company agreed they would no longer engage with the complainant once he made it clear he would bring his complaint to the Commission.</p> <p>Mr. Jung distributed copies of the zoning map which shows that Lava Lava Beach Club is within the RR-20 zone, where the allowable decibel readings are set at 60.</p> <p>Director Rapozo added that based on Mr. Martin's complaint, the Department conducted a sound survey on May 25, and could not determine any violation. He noted that most of the complaints have come in during the early evening, and it appears the licensee is doing their best to comply with the noise levels.</p>	
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Commissioner Gibson asked whether the Department’s reading was comparable to the licensee’s readings. Investigator Herman noted ambient noise was taken into account such as the ocean, birds, etc., which makes it difficult to come up with an accurate reading. The readings that day were taken at approximately 8:00 p.m., and averaged between 55 – 57 decibels. The ambient noise was reading between 53 – 56 decibels; the decibels were below 60.

Mr. Fuentes asked that if the ambient noise is at the same level as the music, is it hard to discern which is which. Investigator Herman stated if the ambient noise is at the same or similar level as the music, they counter each other out. Mr. Jung pointed out an area on the Google maps screen capture to indicate where Lava Lava has mounted speakers that provide background music, which he suspects are the speakers Mr. Martin is complaining about. He noted, however, that the main speakers from the sound system the musicians use are aimed toward the guests and away from the Lae Nani condominiums.

Commissioner Gibson asked whether the sound is impacted by the direction of the wind; does Mr. Martin get upset during trade winds? Mr. Jung explained the trade wind patterns in that area seem to blow across the front of his unit out toward the ocean.

Mr. Hilmy Dole, General Manager of Kauai Shores stated that Mr. Martin’s building is right behind their building, and he has not had a single complaint from any of their guests.

Vice Chair Akita asked to clarify that Mr. Martin’s apartment is behind the Kauai Shores building to which Mr. Dole replied yes.

	<p>Commissioner Endo commented that he recently attended a function at the Kauai Shores hotel, and did notice that in the dining area that faces the beach toward the Lae Nani property, the music does carry over. He noted that this was in the late afternoon, and probably a different type of music, but because he was closer to the Lava Lava building, it is difficult to determine how much of the sound carries over to Lae Nani. He stated that the ambiance in the late afternoon is different, when there are many beach-goers participating in “toes in the sand” dining, which resulted it in being very loud. He commented that while attending his function, he was unable to hear the guest speaker due to the noise coming from the Lava Lava Beach Club. However, he again stated that he cannot determine how much of that carries over to the neighboring property, but based on his experience attending a function at the hotel, he can see how the complainant may feel it was loud. Commissioner Endo feels it is a good thing that the licensee is monitoring the noise levels.</p> <p>Chair Matsunaga asked to clarify whether Mr. Jung is in disagreement with Mr. Martin’s letter dated June 10, 2016 in which it appears he is trying to resolve the issue with Lava Lava. Mr. Jung reiterated that the licensee did attempt to discuss the issue, but the complainant became somewhat hostile in subsequent meetings. It seems a bit futile to engage any further with the complainant as they are demanding the music cease at 8:30 p.m.; the licensee already voluntarily ceases the music at 9:00 p.m. despite the fact that they are allowed to have music until 10:00 p.m.</p>	
3.	<u>RENEWAL OF PERMITS:</u>	<p>Ms. Iida moved to approve the renewal of all licenses listed in Attachment B. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p>Mr. Endo moved to accept the renewal of permits. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

4.	<p><u>CONVERSION OF LLC:</u></p> <p><u>SAM'S OCEAN VIEW:</u> Conversion of Sam's on the Beach, LLC dba Sam's Ocean View from a member-managed LLC to a manager-managed LLC; the appointment of John d. Reynold's as General Manager, and Samantha Reynold's as Operations Manager; and the addition of the Reynold's Family Trust as members.</p>	Mr. Gibson moved to accept the conversion of LLC. Mr. Pacheco seconded the motion. Motion carried 6:0.
5.	<p><u>CHANGE IN CORPORATE OFFICERS:</u></p> <p><u>YOUNG'S MARKET COMPANY:</u> Addition of David Solomon as Chief Financial Officer, Executive Vice President, and Assistant Secretary.</p>	Ms. Iida moved to accept the change in corporate officers. Mr. Pacheco seconded the motion. Motion carried 6:0
6.	<p><u>ALCOHOL PURCHASE PERMIT:</u></p> <p><u>NATIONAL TROPICAL BOTANICAL GARDEN:</u> Request for permit to purchase ethanol.</p>	Mr. Pacheco moved to approve the request for alcohol purchase permit. Ms. Iida seconded the motion. Motion carried 6:0.
7.	<p><u>REQUEST FOR EXTENSION IN TIME TO SUBMIT TAX CLEARANCES:</u></p> <ul style="list-style-type: none"> • JC's Flowers & Mini Mart • Waimea Plantation Cottages • AOA Of Hanalei Bay Resort <p>Director Rapozo noted that since this posting, Waimea Plantation Cottages, and AOA Hanalei Bay Resort have submitted their tax clearances, and their licenses have been issued.</p>	Mr. Pacheco moved to approve request for extension in time. Ms. Iida seconded the motion. Motion carried 6:0.

Announcements	Next Scheduled Meeting: Thursday, July 21, 2016 – 4:00 pm, Mo'ikeha Building, Meeting Room #3.	
Adjournment		Chair Matsunaga adjourned the meeting at 4:31 p.m.

Submitted by: _____
Cherisse Zaima, Private Secretary

Reviewed and Approved by: _____
Gerald Matsunaga, Chair